

08/25/2003

Senator Lloyd P. LaFountain III, Chair
Representative Christopher P. O'Neil, Chair
Joint Standing Committee on Insurance and Financial Services
115 State House Station
Augusta, Maine 04333-0115

Senator Betheda Edmonds, Chair
Representative William Smith, Chair
Joint Standing Committee on Labor
115 State House Station
Augusta, Maine 04333-0115

Re: Workers' Compensation 24-Hour Pilot Projects

To the Members of the Joint Standing Committee on Insurance and Financial Services and the Joint Standing Committee on Labor:

In accordance with Title 39-A, Section 403(2)(C), I am submitting this report on the status of 24-hour pilot projects for workers' compensation insurance. Twenty-four hour coverage provides medical benefits and lost time wages to injured employees without regard to whether the injury was work-related. Twenty-four hour pilot projects are authorized by section 403(2) of the Workers' Compensation Act.

By way of background, in 1991 the legislature enacted Title 39-A M.R.S.A. § 403(2), which authorized the development of 24-Hour Coverage pilot projects. Originally scheduled to sunset in 1996, the pilot project authorization was extended first to 2001 and then again to 2005. In 1992, the Maine Bureau of Insurance held a public hearing to receive comments on a proposed implementing rule; however, no rule was enacted at that time. The Bureau of Insurance subsequently adopted Rule 690 on March 1, 1995.

Legislation was also adopted in 1995 that allows the consideration of 24-hour coverage plans providing both medical and disability benefits. The Bureau then amended its Rule 690 to provide criteria for approval of alternative indemnity benefit structures. The Maine Law Court dismissed a challenge to the amended rule on December 3, 1998.

In October 1995 the Maine Bureau of Insurance obtained a grant from the Robert Wood Johnson Foundation to aid in the implementation and evaluation of pilot projects. The project included contracting with a firm to publicize and promote the pilot project. Although the interest in 24-hour coverage has lessened, the Bureau of Insurance will review any proposal for pilot projects.

No new 24-hour project filings were received in 2002 or in 2003 to date. At the present time, only Maine Employers' Mutual Insurance Company (MEMIC) has a plan on file with the Bureau, as required by Rule 690. The MEMIC plan is a wrap-around indemnity policy only. MEMIC has never issued a 24-hour policy.

Maine law allows considerable flexibility in designing innovative coverage structures, subject to approval by the Bureau of Insurance in consultation with the Workers' Compensation Board. Concepts presented to Bureau staff in the past include:

- A 24-hour HMO with a single network and uniform co-payment structure, coordinating with an indemnity-only policy whose carrier reinsures the medical tail;
- A single excess policy to cover occupational and non-occupational medical care for self-insured employers;
- A capitated arrangement for occupational and non-occupational medical coverage, and a coordinated product with a single entry point for occupational and non-occupational medical care.

One difficulty with the 24-hour concept is that it requires coordination or a combination of different lines of insurance – disability, medical and workers' compensation. A company or a group of companies that writes all these lines of insurance would, in theory, most easily be able to put together a package because it would require less collaboration with other entities.

Currently, no carriers are offering complete 24-hour coverage plans. Some reasons for lack of interest in 24-hour coverage are the employer/insurer's ability to select a health care provider for the injured worker during the initial 10 days, changes in workers' compensation in 1993 which reduced costs to employers, and ERISA preemption issues. A shift in focus away from 24-hour coverage to addressing workers' compensation and non-occupational medical/disability benefits through separate, but coordinated, systems is occurring nationally and in Maine.

A 1997 grant report to The Robert Wood Johnson Foundation identified challenges of adopting 24-hour coverage. Many of these challenges still exist today. For more information about 24-hour coverage or for a copy of the 1997 report, please do not hesitate to contact me at 34 State House Station, Augusta, Maine 04333-0034.

Sincerely,

Alessandro A. Iuppa
Superintendent

CC: Office of the Governor
Robert Murray, Commissioner of Professional and Financial Regulation
Laura Fortman, Commissioner of Labor
Paul Dionne, Executive Director of the Workers' Compensation Board